BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AR EX FIGUEROA PHARMACY AR EX PHARMACY MANCHESTER AR EX PHARMACY ROBERT A. GANTT RICHARD A. FOSTER CLAUDE ANTHONY REESE JOSEPH SHEDRED ALEXANDER Respondents.	Case No. 2516 OAH No. L 2006050778

DECISION AND ORDER AS TO RESPONDENT FOSTER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 28, 2007.

It is so ORDERED February 26, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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By William Powers
WILLIAM POWERS
Board President

BILL LOCKYER, Attorney General
of the State of California
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Supervising Deputy Attorney General
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Attorneys for Complainant

ORIGINAL

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AR EX FIGUEROA PHARMACY 600 West Manchester Boulevard Los Angeles, California 90044 owned by : AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 14973** and AR EX PHARMACY MANCHESTER 600 West Manchester Boulevard Los Angeles, California 90044 owned by: AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 44568** and AR EX PHARMACY 3701 Stocker Street Los Angeles, California 90008 owned by: AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 19542** and AR EX PHARMACY 3701 Stocker Street Los Angeles, California 90008 owned by: AR EX PHARMACIES INC.	Case No. 2516 **STIPULATED SURRENDER OF LICENSE AND ORDER AS TO RESPONDENT FOSTER**

Original Pharmacy Permit No. **PHY 44567**

and

AR EX PHARMACY
2829 S. Western Avenue
Los Angeles, California 90048-3033
owned by:
AR EX PHARMACIES INC.
Original Pharmacy Permit No. **PHY 41441**

and

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

Original Pharmacist License
No. **RPH 17807**,

and

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

Original Pharmacist License
No. **RPH 21138**,

and

CLAUDE ANTHONY REESE
1900 South Point View Street
Los Angeles, California 90034

Original Pharmacist License
No. **RPH 22845**,

and

JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, California 90016

Original Pharmacist License
No. **RPH 17981**,

Respondents.

In the interest of resolving this matter in a manner consistent with the public interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,

the parties hereby agree to the following Stipulated Surrender of License and Order, which will be submitted to the Board for approval and adoption as the final disposition of the Accusation with respect to Respondent RICHARD A. FOSTER only[1] :

PARTIES

1. At the time the Accusation was filed, Patricia F. Harris (Complainant), was the Executive Officer of the Board of Pharmacy, and brought this action solely in her official capacity. Virginia Herold is the current Interim Executive Office of the Board of Pharmacy. Both are represented in this matter by Bill Lockyer, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney General.

2. On or about July 25, 1959, the Board of Pharmacy issued Original Pharmacist License Number RPH 21138 to RICHARD A. FOSTER (Respondent).The Original Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on July 31, 2007, unless renewed.

3. Respondent is represented by Law Offices of Lee Brewster, by Mr. Lee Brewster, Attorney at Law, 8939 South Sepulveda Boulevard, Suite 102, Los Angeles, California, 90045 .

JURISDICTION

4. Accusation No. 2516 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served to Respondent on September 9, 2004. Respondent has timely filed his Notices of Defense contesting the Accusation. The 6th and 7th causes of the Accusation were amended by interlineation by Order of Administrative Law Judge Carolyn Magnuson on November 20, 2006. A copy of Accusation No.

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[1] The Board previously issued its Order resolving this Accusation against all named Respondents, but for Respondents Foster and *Joseph Shedred Alexander*. Effective November 15, 2006, the Board accepted the surrender of Respondents Robert A. Gantt and Claude Anthony Reese, and all named facility permits (Phy 14973, Phy 44568, Phy 19542, Phy 44567 and Phy 41441). A separate stipulation for resolution of the Accusation against Respondent Alexander is also submitted herewith for the Board's consideration.

2516, as amended by interlineation, is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2516, as amended. Respondent also has carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent RICHARD A. FOSTER admits the truth of paragraphs 1 through 32 inclusive, and paragraphs 38, 39, 40 and 52 of Accusation No. 2516, as amended, and agrees that cause exists for discipline and hereby surrenders his Pharmacist License Number RPH 21138 to practice Pharmacy in the State of California to conclude this pending Accusation matter.

9. Respondent understands that by signing this stipulation he is enabling the Board to issue its order accepting the surrender of Pharmacist License Number RPH 21138 without further process. Upon acceptance of the stipulation by the Board, Respondent understands that he will no longer be permitted to practice as a licensed pharmacist in California.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of

Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 21138, issued to Respondent RICHARD A. FOSTER is surrendered and accepted by the Board of Pharmacy .

1. The surrender of Respondent's Pharmacist License Number RPH 21138 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a licensed Pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall relinquish and cause to be delivered to the Board both his wall and pocket renewal license to the Board on or before the effective date of the Decision and Order.

4. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for

licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 2794 shall be deemed to be admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. The Board had incurred costs in the investigation and prosecution of this matter within the meaning of Business and Professions Code Section 125.3. In the event Respondent applies for relicensure or petitions for reinstatement, Respondent shall pay to the Board a portion of costs attributable to Respondent in the sum of Two Thousand, Five Hundred Dollars ($2,500.00) prior to issuance of any new or reinstated license.

6. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist License No. RPH 21138, I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy .

DATED: 01/08/07.

Richard A. Foster
RICHARD A. FOSTER
Respondent

I concur in the Stipulation to Surrender of License, Decision and Order.

DATED: Jan 8, 2007

Lee Brewster
Law Office of Lee Brewster
By: LEE BREWSTER
Attorney for Respondent Foster

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 1-19-07.

BILL LOCKYER, Attorney General
of the State of California

SUSAN MELTON WILSON
Deputy Attorney General
Attorneys for Complainant

AREX FOSTER- FINAL.wpd

EXHIBIT A

BILL LOCKYER, Attorney General
of the State of California
SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AR EX FIGUEROA PHARMACY 600 West Manchester Boulevard Los Angeles, California 90044 owned by : AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 14973** and AR EX PHARMACY MANCHESTER 600 West Manchester Boulevard Los Angeles, California 90044 owned by: AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 44568** and AR EX PHARMACY 3701 Stocker Street Los Angeles, California 90008 owned by: AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 19542** and AR EX PHARMACY 3701 Stocker Street Los Angeles, California 90008 owned by: AR EX PHARMACIES INC. Original Pharmacy Permit No. **PHY 44567**	Case No. 2516 **A C C U S A T I O N**

AR EX PHARMACY
2829 S. Western Avenue
Los Angeles, California 90048-3033
owned by:
AR EX PHARMACIES INC.
Original Pharmacy Permit No. **PHY 41441**

and

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

Original Pharmacist License
No. **RPH 17807**,

and

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

Original Pharmacist License
No. **RPH 21138**,

and

CLAUDE ANTHONY REESE
1900 South Point View Street
Los Angeles, California 90034

Original Pharmacist License
No. **RPH 22845**,

and

JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, California 90016

Original Pharmacist License
No. **RPH 17981**,

Respondents.

Complainant alleges:

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PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

AR EX FIGUEROA PHARMACY - 600 W. MANCHESTER BLVD.

2. On or about June 6, 1969, the Board of Pharmacy issued Original Pharmacy Permit No. PHY 14973 to Ar Ex Pharmacies, Inc., a corporation, licensed to do business as AR EX FIGUEROA PHARMACY, located at 600 West Manchester Boulevard in the City of Los Angeles. Said license was in full force and effect between date of issuance and September 14, 2000 when a change of ownership occurred.

Corporate officers of record with the Board and pharmacist(s) in charge of PHY 14973 were ROBERT GANTT and CLYDE HATCH;

Pharmacist-in-charge of AR EX Figueroa between date of issuance and July 2, 1999 was CLYDE HATCH, deceased. Pharmacist in charge between August 24, 1999 and September 14, 2000 was JOSEPH SHEDRED ALEXANDER.

AR EX PHARMACY MANCHESTER - 600 W. MANCHESTER BLVD.

3. On or about August 24, 2000, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 44568 to Ar Ex Pharmacies, Inc., to operate a pharmacy at the former location of AR EX FIGUEROA PHARMACY, but with a different name, AR EX PHARMACY MANCHESTER, at 600 West Manchester Boulevard, in the City of Los Angeles.

Corporate officers of record at all times mentioned herein between date of issuance and August 24, 2000 were ROBERT GANTT and CLAUDE ANTHONY REESE JR.

Pharmacist- in- charge was JOSEPH SHEDRED ALEXANDER from date of issuance through the present.

Said license was in full force and effect at all times relevant to the charges brought herein and will expire on August 1, 2004, unless renewed.

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AR EX (STOCKER) - 3701 STOCKER STREET

4. On or about June 21, 1977 the Board issued Original Pharmacy Permit No. PHY 19542 to Ar Ex Pharmacies, Inc., a corporation, to do business as AR EX PHARMACY, located at 3701 Stocker Street in the city of Los Angeles (hereinafter "**Ar Ex Stocker** "). The license was canceled on September 14, 2000, but was in full force an effect at all times relevant to the charges brought herein.

Corporate officers of record with the Board were ROBERT GANTT, and CLYDE HATCH JR., deceased.

Pharmacist- in- Charge between October 10, 1987 and September 14, 2000 was RICHARD FOSTER.

5. On or about August 28, 2000 , the Board of Pharmacy issued Original Pharmacy Permit Number PHY 44567 to Ar Ex Pharmacies, Inc., to operate a pharmacy at the same location, with the same name.

Corporate officers of record with the Board for PHY 44567 are ROBERT GANTT, and CLAUDE ANTHONY REESE.

Pharmacist- in- Charge between date of issuance and the present is ROBERT GANTT.

Said license was in full force and effect at all times relevant to the charges herein, and will expire on August 1, 2004 unless renewed.

AR EX (WESTERN) - 2829 S. WESTERN AVENUE

6. On or about June 4, 1996, the Board of Pharmacy issued Original Pharmacy Permit No. PHY 41441 to Ar Ex Pharmacies, Inc., a corporation, to do business as AR EX PHARMACY, located at 2829 S. Western Avenue in the City of Los Angeles. Said license was in full force and effect at all times relevant to the charges brought herein.

Corporate officers of record between September 27, 2000 and the present were ROBERT GANTT and CLAUDE ANTHONY REESE.

Pharmacist- in- charge of PHY 41441 between September 27, 2000, and the present is CLAUDE ANTHONY REESE.

7. On or about April 15, 1950, the Board of Pharmacy issued Original Pharmacist License No. RPH 17807 to ROBERT A. GANTT (Respondent Gantt). The Original Pharmacist License was in full force and effect at all times relevant to the charges herein, until January 31, 2002, at which time a hold was placed on Respondent's license due to his failure to comply with continuing education requirements. The license will expire on January 31, 2004, unless renewed.

8. On or about July 25, 1959, the Board of Pharmacy issued Original Pharmacist License Number RPH 21138 to RICHARD A. FOSTER (Respondent Foster). The Original Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on July 31, 2003, unless renewed.

9. On or about February 6, 1963, the Board of Pharmacy issued Original Pharmacist License No. RPH 22845 to CLAUDE ANTHONY REESE (Respondent Reese). The Original Pharmacist License was in full force and effect at all times relevant to the charges herein, will expire on December 31, 2003, unless renewed.

10. On or about October 22, 1949, the Board of Pharmacy issued Original Pharmacist License Number RPH 17981 to JOSEPH SHEDRED ALEXANDER (Respondent Alexander). The Original Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on September 30, 2004, unless renewed.

AR EX EMPLOYEE(S)

11. Original Pharmacist License Number RPH 37048 issued to STEPHANIE A. MARTIN WILLIAMS was suspended, effective August 21, 1999, per the Board's order in *Accusation vs Stephanie A. Martin Williams* (AC2300), and subsequently revoked in 2003.

JURISDICTION

12. This Accusation is brought before the Board of Pharmacy (Board), under the authority of the following sections of the Business and Professions Code (Code).

13. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

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14. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

15. Section 4005 of the Code states:

"(a) The board may adopt rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under this chapter; pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed; providing for standards of minimum equipment for establishments licensed under this chapter; and pertaining to the sale of drugs by or through any mechanical device.

"(b) Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to prescribe in a state other than California where the person, if licensed in California in the same licensure classification would, under California law, be permitted to prescribe drugs or devices and where the pharmacist has first interviewed the patient to determine the authenticity of the prescription.

"(c) The board may, by rule or regulation, adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession. Every person who holds a license issued by the board shall be governed and controlled by the rules of professional conduct adopted by the board.

"(d) The adoption, amendment, or repeal by the board of these or any other board rules or regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code."

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16. Section 4081 of the Code states:

"(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

"(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

"(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly participate."

17. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

18. Section 4076, subdivision (a), of the Code states:

"A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

"(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or

protocol, or the physician assistant who functions pursuant to Section 3502.1 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer.

Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

"(2) The directions for the use of the drug.

"(3) The name of the patient or patients.

"(4) The name of the prescriber and, if applicable, the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, or the physician assistant who functions pursuant to Section 3502.1.

"(5) The date of issue.

"(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

"(7) The strength of the drug or drugs dispensed.

"(8) The quantity of the drug or drugs dispensed.

"(9) The expiration date of the effectiveness of the drug dispensed.

"(10) The condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription."

19. Section 4113 of the Code states:

"(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days thereof, shall notify the Board in writing of the identity and license number of that pharmacist and the date he or she was designated.

"(b) The pharmacist-in-charge shall be responsible for a pharmacy"s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

20. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of

unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

. . . .

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board."

21. Section 4328 of the Code states:

"Except as otherwise provided in this chapter, any person who permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs in his or her pharmacy, except by a pharmacist, is guilty of a misdemeanor."

22. Section 4329 of the Code states:

"Any non-pharmacist who takes charge of or acts as manager of any pharmacy or who compounds or dispenses a prescription or furnishes dangerous drugs except as otherwise provided in this chapter is guilty of a misdemeanor."

23. Section 4330 of the Code states:

"(a) Any person who has obtained a license to conduct a pharmacy, who fails to place in charge of the pharmacy a pharmacist, or any person, who by himself or herself, or by any other person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs, in his or her pharmacy, except by a pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.

"(b) Any non-pharmacist owner who commits any act that would subvert or tend to subvert the efforts of the pharmacist-in-charge to comply with the laws governing the operation of the pharmacy is guilty of a misdemeanor."

24. Section 4342 states, in pertinent part, that:

"(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law."

25. Health and Safety Code section 11153, subdivision (a) states:

"A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription."

26. Health and Safety Code, section 11165, states:

"(a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, and the Osteopathic Medical Board of California Contingent Fund, establish the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. CURES shall be implemented as a pilot project, commencing on July 1, 1997, to be administered concurrently with the existing triplicate prescription process, to examine the comparative efficiencies between the two systems.

"(b) The CURES pilot project shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of

Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision, shall not be disclosed, sold, or transferred to any third party.

"(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed."

27. California Code of Regulations, title 16, section 1715.5 states:

"The collection of information authorized by Health and Safety Code section 11165 shall be provided as follows:

"(a) For each prescription for a Schedule II controlled substance, the dispensing pharmacy shall provide the following information: the full name and address of the patient; the gender and date of birth of the patient; the DEA (Drug Enforcement Administration) number of the prescriber; the triplicate prescription number; the pharmacy prescription number; the pharmacy license number; the NDC (National Drug Code) number and the quantity of the controlled substance; the ICD-9 (diagnosis code), if available; the date of issue of the prescription, the date of dispensing of the prescription, and the state medical license number of any prescriber using the DEA number of a government exempt facility.

"(b) The above information shall be provided in the following format:

"(1) For each pharmacy with the capacity to do so, by on-line transmission at least every 30 days and no later than the 18th calendar day of the month following the month in which the prescription is dispensed.

"(2) For each pharmacy which does not have the capacity to transmit the information on-line, on a three and one-half inch diskette in a ASCII format or one-half inch nine track magnetic 1600 BPI tape or any other medium approved by the Board of Pharmacy, which diskette, tape or medium shall be mailed or delivered to a location specified by The Board of

Pharmacy, at least every 30 days and no later than the 18th calendar day of the month following the month in which the prescription is dispensed.

"(3) For each pharmacy without the capacity to comply with either subsection (b)(1) or (2), the original triplicate shall be transmitted to the Department of Justice by the end of the month in which the prescription was filled.

"For each pharmacy which submits hard copy pursuant to this subdivision and which pharmacy averages more than 25 triplicate prescriptions per month in any six months, the Board of Pharmacy or its designee may thereafter require that pharmacy to comply with subsections (b)(1) and (2).

"(4) As to a prescription which is partially filled or dispensed, the period for compliance with subsections (1), (2), or (3) shall be measured from the earlier of the following dates and times: the prescription is either (1) completely dispensed or (2) can no longer be dispensed.

"(c) Every pharmacy which has made a submission as required by this section by July 18, 1998, shall receive a reduction of $ 75 on its next renewal fee for licensure of the pharmacy by the board. Every pharmacy shall be in compliance with this section and Health and Safety Code section 11165 by September 18, 1998".

28. California Code of Regulations, title 16, section 1717, states:

"(a) No medication shall be dispensed on prescription except in a new container which conforms with standards established in the official compendia.

"Notwithstanding the above, a pharmacist may dispense and refill a prescription for non-liquid oral products in a clean multiple-drug patient medication package (patient med pak), provided:

"(1) a patient med pak is reused only for the same patient;

"(2) no more than a one-month supply is dispensed at one time; and

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"(3) each patient med pak bears an auxiliary label which reads, 'store in a cool, dry place.'

"(b) In addition to the requirements of Section 4036, Business and Professions Code, the following information shall be maintained for each prescription on file and shall be readily retrievable:

"(1) The date dispensed, and the name or initials of the dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be initialed by the preceptor before they are dispensed.

"(2) The brand name of the drug or device; or if a generic drug or device is dispensed, the distributor's name which appears on the commercial package label; and

"(3) If a prescription for a drug or device is refilled, a record of each refill, quantity dispensed, if different, and the initials or name of the dispensing pharmacist.

"(4) A new prescription must be created if there is a change in the drug, strength, prescriber or directions for use, unless a complete record of all such changes is otherwise maintained.

"(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself.

"All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing.

"Chart orders as defined in Section 4019 of the Business and Professions Code are not subject to the provisions of this subsection.

"(d) A pharmacist may furnish a drug or device pursuant to a written or oral order from a prescriber licensed in a State other than California in accordance with Business and Professions Code Section 4005.

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"(e) No licensee shall participate in any arrangement or agreement, whereby prescriptions, or prescription medications, may be left at, picked up from, accepted by, or delivered to any place not licensed as a retail pharmacy.

"However, a licensee may pick up prescriptions at the office or home of the prescriber or pick up or deliver prescriptions or prescription medications at the office of or a residence designated by the patient or at the hospital, institution, medical office or clinic at which the patient is present. The Board may in its sole discretion waive this application of the regulation for good cause shown.

"(f) A pharmacist may transfer a prescription for Schedule III, IV or V controlled substances to another pharmacy for refill purposes in accordance with Title 21, Code of Federal Regulations, 1306.26.

"Prescriptions for other dangerous drugs which are not controlled substances may also be transferred by direct communication between pharmacists or by the receiving pharmacist's access to prescriptions or electronic files that have been created or verified by a pharmacist at the transferring pharmacy. The receiving pharmacist shall create a written prescription; identifying it as a transferred prescription; and record the date of transfer and the original prescription number. When a prescription transfer is accomplished via direct access by the receiving pharmacist, the receiving pharmacist shall notify the transferring pharmacy of the transfer. A pharmacist at the transferring pharmacy shall then assure that there is a record of the prescription as having been transferred, and the date of transfer. Each pharmacy shall maintain inventory accountability and pharmacist accountability and dispense in accordance with the provisions of Section 1716. Information maintained by each pharmacy shall at least include:

"(1) Identification of pharmacist(s) transferring information;

"(2) Name and identification code or address of the pharmacy from which the prescription was received or to which the prescription was transferred, as appropriate;

"(3) Original date and last dispensing date;

"(4) Number of refills and date originally authorized;

"(5) Number of refills remaining but not dispensed;

"(6) Number of refills transferred.

"(g) The pharmacy must have written procedures that identify each individual pharmacist responsible for the filling of a prescription and a corresponding entry of information into an automated data processing system, or a manual record system, and the pharmacist shall create in his/her handwriting or through hand-initializing a record of such filling, not later than the beginning of the pharmacy's next operating day. Such record shall be maintained for at least three years."

29. California Code of Regulations, title 16, section 1718 states:

"'Current Inventory' as used in Section 4232 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4232."

30. Code of Federal Regulations, section 1301.7, states:

"(a) All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a registrant has provided effective controls against diversion, the Administrator shall use the security requirements set forth in sections 1301.72-1301.76 as standards for the physical security controls and operating procedures necessary to prevent diversion. Materials and construction which will provide a structural equivalent to the physical security controls set forth in sections 1301.72, 1301.73 and 1301.75 may be used in lieu of the materials and construction described in those sections.

"(b) Substantial compliance with the standards set forth in sections 1301.72-1301.76 may be deemed sufficient by the Administrator after evaluation of the overall security system and needs of the applicant or registrant. In evaluating the overall security system of a registrant or applicant, the Administrator may consider any of the following factors as he may deem relevant to the need for strict compliance with security requirements:

"(1) The type of activity conducted (e.g., processing of bulk chemicals, preparing dosage forms, packaging, labeling, cooperative buying, etc.);

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"(2) The type and form of controlled substances handled (e.g., bulk liquids or dosage units, usable powders or nonusable powders);

"(3) The quantity of controlled substances handled;

"(4) The location of the premises and the relationship such location bears on

"(5) The type of building construction comprising the facility and the general characteristics of the building or buildings;

"(6) The type of vault, safe, and secure enclosures or other storage system (e.g., automatic storage and retrieval system) used;

"(7) The type of closures on vaults, safes, and secure enclosures;

"(8) The adequacy of key control systems and/or combination lock control systems;

"(9) The adequacy of electric detection and alarm systems, if any including use of supervised transmittal lines and standby power sources;

"(10) The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;

"(11) The adequacy of supervision over employees having access to manufacturing and storage areas;

"(12) The procedures for handling business guests, visitors, maintenance personnel, and non-employee service personnel;

"(13) The availability of local police protection or of the registrant's or applicant's security personnel, and;

"(14) The adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances in its operations.

"(c) When physical security controls become inadequate as a result of a controlled substance being transferred to a different schedule, or as a result of a non-controlled substance being listed on any schedule, or as a result of a significant increase in the quantity of controlled substances in the possession of the registrant during normal business operations, the physical security controls shall be expanded and extended accordingly. A registrant may adjust

physical security controls within the requirements set forth in sections 1301.72-1301.76 when the need for such controls decreases as a result of a controlled substance being transferred to a different schedule, or a result of a controlled substance being removed from control, or as a result of a significant decrease in the quantity of controlled substances in the possession of the registrant during normal business operations.

"(d) Any registrant or applicant desiring to determine whether a proposed security system substantially complies with, or is the structural equivalent of, the requirements set forth in sections 1301.72-1301.76 may submit any plans, blueprints, sketches or other materials regarding the proposed security system either to the Special Agent in Charge in the region in which the system will be used, or to the Compliance Division, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537.

"(e) Physical security controls of locations registered under the Harrison Narcotic Act or the Narcotics Manufacturing Act of 1960 on April 30, 1971, shall be deemed to comply substantially with the standards set forth in sections 1301.72, 1301.73 and 1301.75. Any new facilities or work or storage areas constructed or utilized for controlled substances, which facilities or work or storage areas have not been previously approved by the Administration, shall not necessarily be deemed to comply substantially with the standards set forth in sections 1301.72, 1301.73 and 1301.75, notwithstanding that such facilities or work or storage areas have physical security controls similar to those previously approved by the Administration."

31. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

32. <u>DRUG CLASSIFICATIONS</u>

A. Dilaudid 4mg (hydromorphone) is a dangerous drug per Business and Professions Code section 4022 and a schedule II controlled substance per Health & Safety Code section 11055. It is a narcotic analgesic used to treat severe pain.

B. Empirin #3 and Empirin #4, a brand name for aspirin with Codeine, 30 mg. for #3 and 60 mg. for #4 and aspirin 500 mg., is a schedule III controlled substance as designated by Health & Safety Code section 11056(e)(2) and is categorized as a dangerous drug pursuant to section 4022 of the code.

C. Phenergan & Codeine (a brand name for promethazine with Codeine) is a dangerous drug per Business and Professions Code section 4022 and a schedule V controlled substance per Health & Safety Code section 11058. It is a narcotic analgesic, used to treat cough.

D. Seconal (secobarbital) is a dangerous drug per Business and Professions Code section 4022 and a schedule II controlled substance per Health & Safety Code section 11055. It is a barbiturate used to treat insomnia.

E. Tussionex (a brand name for hydrocodone 10mg/ chlorpheniramine 8mg) is a dangerous drug per Business and Professions Code section 4022 and a schedule III controlled substance per Health & Safety Code section 11056. It is a combination narcotic product used to treat cough.

F. Tylenol & Codeine 60mg (Acetaminophen & Codeine, T4) is a dangerous drug per Business and Professions Code section 4022 and a schedule III controlled substance per Health & Safety Code section 11056. It is a combination narcotic analgesic, used to treat moderate pain.

G. Tylenol #3 and Tylenol #4, a brand name for Acetaminophen with Codeine, 30 mg. for #3, 60 mg. for #4 with 500 mg. Acetaminophen, is a schedule III controlled substance as designated by Health & Safety Code section 11056(e)(2) and is categorized as a dangerous drug pursuant to section 4022 of the code.

H. Valium 10mg (a trade name for the chemical substance diazepam) is a dangerous drug per Business and Professions Code section 4022 and a schedule IV controlled substance per Health & Safety Code section 11057. It is a benzodiazepine used to treat anxiety.

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I. Vicodin ES (a brand name for hydrocodone 7.5mg and acetaminophen 750mg) is a dangerous drug per Business and Professions Code section 4022 and a schedule III controlled substance per Health & Safety Code section 11056. It is a combination narcotic analgesic, used to treat moderate pain.

AR EX FIGUEROA PHARMACY

FIRST CAUSE OF DISCIPLINE

(Permitting Non-Licensee to Dispense Prescriptions)

33. Respondents ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4328, due to their conduct on November 10, 1999, in permitting Stephanie A. Martin Williams to take charge of and dispense prescriptions at AR EX Figueroa, despite suspension of her pharmacy license two months earlier (by Order effective August 21, 1999). At that time and place, Williams was the only pharmacist on duty.

SECOND CAUSE FOR DISCIPLINE

(Permitting Non-Licensee to Dispense Prescriptions)

34. Respondents AR EX FIGUEROA PHARMACY and ROBERT A. GANTT are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4330, due to their conduct on November 10, 1999, in permitting Stephanie A. Martin Williams to take charge of and dispense prescriptions at AR EX Figueroa, despite suspension of her pharmacy license two months earlier (by Order effective August 21, 1999). At that time and place, Williams was the only pharmacist on duty.

THIRD CAUSE FOR DISCIPLINE

(Failure to Implement Electronic Monitoring of Prescriptions)

35. Respondents AR EX FIGUEROA PHARMACY , and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with Health and Safety Code section 1165 and 16 California Code of Regulations Section 1715.5, in that at no time between September 18, 1998 (compliance date set out in implementing regulations) and

September 14, 2000 did Respondent comply with Section 1715.5 requirements to transmit electronic data to the Bureau of Narcotic Enforcement on a monthly basis, regarding dispensing of schedule II controlled substances.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain a Current Inventory)

36. Respondents AR EX FIGUEROA PHARMACY , and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of Regulations Section 1718 for failure to maintain a "current inventory" , in that Respondents were unable to account for over 90,000 doses of schedule III controlled substances, and over 240 gallons of schedule V substances, dispensed between May 1, 1999 and November 23, 1999, as follows:

A. Commencing on November 10, 1999, a selected drug audit was performed by Board inspectors. The audit period was from May 1, 1999 through November 23, 1999. The audit revealed the following irregularities:

DRUG	AMOUNT ORDERED	TOTAL	AMOUNT DISPENSED	AMOUNT TO BE ACCT'D FOR	STOCK ON HAND	AMT. OVER	AMT. SHORT
Dilaudid 4 mg	2400	2400	6220	-3820	1804	5624	
T4. Tyl+Cod. 60 mg	59,600	59,600	15,888	43,712	2966		40,746
Vicodin ES	54,000	54,000	4978	49,022	3219	1	45,803
Prometh + Codeine	291 gal.[1]	291 gal.	41.77 gal.	249.23 gal.	4.77 gal.		244.41 gal.
Tussiolex	175 pts.[2]	175 pts.	66.46 pts.	108.54 pts.	7 pts.		101.54 pts.

[1] "Gal." = gallon(s).

[2] "Pt." = pint(s).

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records of Drug Transactions)

37. Respondents AR EX FIGUEROA PHARMACY , and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4081 in that between May 1, 1999 and November 23, 1999, though AR EX Figueroa dispensed over 90,000 doses of schedule III controlled substances, and over 240 gallons of schedule V substances - all records of sale, acquisition and disposition of these drugs were not maintained for three years, as required by section 4081.

AR EX - STOCKER

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records of Controlled Substances)

38. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4081 in that between July 6, 2999, and June 21, 1999, though AR EX Figueroa dispensed approximately 350,000 doses of schedule III and schedule IV controlled substances, and over 600 gallons of schedule V substances - all records of sale, acquisition and disposition of these drugs were not maintained and/or not open to inspection for three years, as required by section 4081, as follows:

A. Commencing on November 10, 1999, a selected drug audit was performed by Board inspectors. The audit period was from May 1, 1999 through November 10, 1999. The audit revealed that the following acquisition invoices all for controlled substances were not retained or could not be produced by Respondents:

Date	Invoice No.
July 6, 1999	227127
July 16, 1999	228406
August 2, 1999	230214
November 2, 1999	241230

Date	Invoice No.
November 4, 1999	241583
November 24, 1999	243832
May 28, 1999	652300
June 28, 1999	667746
November 2, 1999	1410334
May 5, 1999	424941
May 1, 1999	318204
May 3, 1999	3796941
May 28, 1999	3819355
June 8, 1999	3826734
June14, 1999	3831401
June 21, 1999	3837236

(Exh. 77A.)

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain a Current Inventory)

39. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of Regulations Section 1718 for failure to maintain a "current inventory", in that Respondents were unable to account for approximately 350,000 doses of schedule III and schedule IV controlled substances, and over 600 gallons of schedule V substances dispensed between May 1, 1999 and November 10, 1999 as follows:

A. Commencing on November 10, 1999, a selected drug audit was performed by Board inspectors. The audit period was from May 1, 1999 through November 10, 1999. The audit revealed the following irregularities:

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DRUG	AMOUNT ORDERED	AMOUNT DISPENSED	AMOUNT TO BE ACCNT'D FOR	STOCK ON HAND	AMOUNT OVER	AMOUNT SHORT
Dilaudid 4 mg.	22500	18395	4105	841		3264
Seconal 100 mg.	5300	7030	-1730	500	2230	
Vicodin ES	489,000	217160	271848	6768		265,080
T4	204,00	271060	-67050	4667	71727	
Prometh + Codeine	1230.6 gal.	587.72 gal.	642.88 gal.	7 pts. .87 gal.		642.01 gal.
Tussionex	32 pts.	19.80 pts.	12.2 pts.	7 pts.		5.2 pts.
Valium 10 mg.	70,500	56,740	13760	8281		5479

EIGHTH CAUSE OF DISCIPLINE

(Incorrect or Irregular Prescription Labels)

40. Respondents AR EX PHARMACY STOCKER and RICHARD A. FOSTER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4076(a) and 4059 in that during an audit commencing in November, 1999, Board inspectors reviewing prescription labels prepared by employees of Respondent Pharmacy, found errors, incorrect information or other irregularities in at least 652 of the 2300 pharmacy labels inspected as follows:

A. Inspectors found 44 prescription documents that were blank, indicating distribution of drugs had been made without a prescription. (violation of section 4059)

B. Inspectors found the following additional irregularities :

(i) 8 incorrect patient first or last name on the prescription label. (Violation of section 4076(a)(3).)

(ii) 15 incorrect drug or drug strength on the prescription label. (Incorrect drug is a violation of Business and Professions Code section 4076(a)(1) and incorrect drug strength is a violation of section 4076(a)(7).)

(iii) 536 incorrect directions on prescription label. (Violation of 4076(a)(2).)

(iv) 47 incorrect physician first or last name on prescription label. (Violation of section 4076(a)(4).)

(v) 2 prescription documents with no name of the medication on the prescription. (Violation of section 4040(a)(1)(B).)

NINTH CAUSE FOR DISCIPLINE

(Responsibility of Pharmacist)

41. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT are subject to disciplinary action for unprofessional conduct under sections 4300 and 4301(j) and (o) of the Code, in conjunction with violating Health and Safety Code section 11153 in that Respondents did not assume their co-responsibility in assuring prescriptions for controlled substances were issued for legitimate medical purposes, as follows:

A. Between December 1 and 6, 2000, in accord with their routine and customary practice, Respondents filled and dispensed approximately 259 prescriptions bundled in groups and in sequence from the same doctor. Approximately 126 of the 259 prescriptions were for controlled substances: Vicodin ES, Phenergan with Codeine, Empirin #3 and Empirin #4, Tylenol #3 and Tylenol #4, and Valium 10mg. The drugs thus dispensed were then delivered to the person who submitted the bundled prescriptions.

B. When interviewed about this practice in July, 2001, Respondent Gantt admitted that the pharmacy had not obtained consent from patients to this arrangement, and had made no effort to verify that the person to whom the drugs were dispensed was an authorized representative of said patients or that the patients actually received the drugs dispensed.

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TENTH CAUSE FOR DISCIPLINE

(Outdated Stock of Shelves)

42. Respondent AR EX PHARMACY STOCKER and ROBERT GANTT are subject to disciplinary action for unprofessional conduct under sections 4300 and 4301(j) and (o) of the Code for violating section 4342 as defined in Title 16, California Code of Regulations, section 1718.1, in that during a Board investigation in July, 2001, investigators found outdated and mislabeled prescription containers on the shelves of Respondent Pharmacy as follows:

A. Repackaged Aventyl or Pamelor in Rx 152809 container, one bottle, expiration date of 02/29/2000;

B. Rx Container #428369, Capoten 100mg., one bottle; expiration date of 10/1998;

C. Rx Container #429197, Actigall 300mg., one bottle; expiration date of 10/1999;

D. Rx Container #453690, Trazodone 150mg., one bottle; no expiration date;

E. Labeled Nifet 20mg., one bottle, no manufacturer's name, no lot number, no expiration date;

F. Labeled Navane, one bottle, no other labeling;

G. Rx Container 440765, Trazodone 100mg., one bottle; expiration date of 10/1999.

AR EX PHARMACY - 2829 S. WESTERN AVENUE

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Implement Electronic Monitoring of Prescriptions)

43. Respondents AR EX PHARMACY WESTERN, and CLAUDE ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with Health and Safety Code section 1165 as it relates to 16 California Code of Regulations Section 1715.5, in that at no time between September 18, 1998 (compliance date set out in implementing statute) and September 14, 2000, did Respondent comply with Section 1715.5 requirements to transmit electronic data to the Bureau of

Narcotic Enforcement on a monthly basis, regarding dispensing of schedule II controlled substances.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records of Controlled Substances)

44. Respondents AR EX PHARMACY WESTERN, and CLAUDE ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4081 in that between approximately May and November 1999, though AR EX Western dispensed approximately 12,000 doses of Tylenol and Codeine 60mg, records of these transactions were not maintained and/or not open to inspection for three years, as required by section 4081.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Inventory of Controlled Substances)

45. Respondents AR EX PHARMACY WESTERN and CLAUDE ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of Regulations Section 1718 for failure to maintain a current inventory, in that Respondents have no inventory records to account for approximately 12,000 doses of Tylenol and Codeine 60 mg dispensed between May and November 1999.

FOURTEENTH CAUSE OF DISCIPLINE

(Incorrect or Irregular Prescription Labels)

46. Respondents AR EX PHARMACY WESTERN and CLAUDE ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4076(a)(3), (a)(1),(a)(2), (a)(8)and (a)(4) and 16 California Code of Regulations sections 1717 and 1717(b)(1), in that during an audit commencing in November, 1999, Board inspectors reviewing prescription labels prepared by employees of Respondent Pharmacy, found errors, incorrect information or other irregularities in at least 1417 of the 1527 pharmacy labels inspected as follows:

A. Inspectors found 131 instances in which prescriptions had been filled, but in which the pharmacist failed to initial the receipt or dispensing of the prescription.(violation of 16 California Code of Regulations Section 1717 and 1717(b)(1)

B. Inspectors found the following additional irregularities :

(i) 12 patient first or last names were incorrect on the prescription label. (Violation of section 4076(a)(3).)

(ii) 581 instances in which the directions on the prescription do not match the directions on the prescription label. (Violation of section 4076(a)(2).)

(iii) 61 instances where the physician last name and 52 instances where the physician first name does not match the prescription label. (Violation of section 4076(a)(4).)

(iv) 5 instances where the quantity dispensed does not match the quantity ordered by the physician. (Violation of section 4076(a)(8).)

(v) 13 instances where the name on the label of the prescription did not match the name of the medication ordered by the physician. (Violation of section 4071(a)(4).)

OTHER MATTERS

48. Business and Professions Code section 4307(a) provides, in pertinent part, that any person whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, or partner and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a license.

49. AR EX PHARMACIES INC., the license holder doing business as AR EX FIGUEROA PHARMACY , AR EX PHARMACY MANCHESTER, AR EX PHARMACY WESTERN and AR EX PHARMACY STOCKER , has been previously disciplined. On or about July 23, 1987, in a prior disciplinary action entitled In the Matter of the Accusation Against Ar Ex

Pharmacies, Inc. before the Board of Pharmacy, in Case No. 1313, the license was placed on probation, with terms and conditions, for a period of three (3) years for unprofessional conduct.

50. Respondent CLAUDE ANTHONY REESE was disciplined in two prior matters : 1) Accusation Case No. 1447 and 2) Accusation Against Case No.1514.

51. Respondent ROBERT GANTT was previously disciplined in the Matter of the Accusation Against Ar Ex Pharmacies, Inc. before the Board of Pharmacy, in Case No. 1313.

52. Respondent RICHARD FOSTER was previously disciplined in the Matter of the Accusation Case No. 1222.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Permit No. PHY 44567, issued to Ar Ex Pharmacies, Inc., to do business as Ar Ex Pharmacies, Inc.,

2. Revoking or suspending Original Pharmacist License No. RPH 17807, issued to Robert A. Gantt;

3. Revoking or suspending Original Pharmacist License No. RPH 21138, issued to Richard A. Foster;

4. Ordering Ar Ex Pharmacies, Inc., Robert Gantt and Richard A. Foster to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

5. Taking such other and further action as deemed necessary and proper.

DATED: 8/23/04

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

60040228

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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AREX PHARMACY-FIGUEROA, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER, Respondents.	Case No. 2516 **STATEMENT TO RESPONDENT** [Gov. Code §§ 11503, 11505, subd. (b)]

TO RESPONDENTS:

Enclosed is a copy of the Accusation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Susan Melton Wilson, within

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fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

Susan Melton Wilson
Deputy Attorney General
Ronald Reagan Building
300 South Spring Street, Suite 1702
Los Angeles, CA 90013.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection to the form of the Accusation unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

If you file any Notice of Defense within the time permitted, a hearing will be held on the charges made in the Accusation.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California 90013, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

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If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Board you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters charged and the discipline to be imposed. Such a stipulation would have to be approved by the Board of Pharmacy but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Susan Melton Wilson at the earliest opportunity.

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SMW:jab
statement to respondent.wpt 7/24/01
60057258

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AREX PHARMACY-FIGUEROA, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER, Respondents.	Case No. 2516 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Notice of Defense.wpt 8/30/01

60057258

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AREX PHARMACY-FIGUEROA, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER, Respondents.	Case No. 2516 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

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Notice of Defense.wpt 8/30/01

60057258

BILL LOCKYER, Attorney General
of the State of California
SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-4942
Facsimile: (213) 897-2804

Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: AREX PHARMACY-FIGUEROA, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER, Respondents.	Case No. 2516 **REQUEST FOR DISCOVERY** [Gov. Code § 11507.6]

TO RESPONDENTS:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

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PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:

a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the Respondent as to this person is the basis for the administrative proceeding;

b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

d. All writings, including but not limited to reports of mental, physical and blood examinations and things which the Respondent now proposes to offer in evidence;

e. Any other writing or thing which is relevant and which would be admissible in evidence, including but not limited to, any patient or hospital records pertaining to the persons named in the pleading;

f. Investigative reports made by or on behalf of the Respondent pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

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For the purpose of this Request for Discovery, "statements" include written statements by the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 9.8.04

BILL LOCKYER, Attorney General
of the State of California

SUSAN MELTON WILSON
Deputy Attorney General

Attorneys for Complainant

SMW:jab
Req for discover.wpt 10/31/00
60057258

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7 PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

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discovery statutes.wpt 5/9/00

60057258

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the Accusation Against:
AR EX FIGUEROA PHARMACY, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER
Board of Pharmacy Case No. 2516

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 9, 2004, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 So. Spring St., Los Angeles, CA 90013, addressed as follows:

AR EX FIGUEROA PHARMACY
600 West Manchester Blvd.
Los Angeles, CA 90044

Certified Mail No.:
7001 0360 0003 6702 5156

AR EX PHARMACY
2829 South Western Blvd.
Los Angeles, CA 90048-3033

Certified Mail No.:
7001 0360 0003 6702 5224

AREX PHARMACY MANCHESTER
600 West Manchester Blvd.
Los Angeles, California 90044

Certified Mail No.:
7001 0360 0003 6702 5217

AR EX PHARMACY
3701 Stocker Street
Los Angeles, California 90008

Certified Mail No.:
7001 0360 0003 6702 5200

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

Certified Mail No.:
7001 0360 0003 6702 5194

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

Certified Mail No.:
7001 0360 0003 6702 5187

CLAUDE ANTHONY REESE
1900 South Point View
Los Angeles, CA 90034

Certified Mail No.:
7001 0360 0003 6702 5163

JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, CA 90016

Certified Mail No.:
7001 0360 0003 6702 5170

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 9, 2004, at Los Angeles, California.

Judith A. Baerresen
Typed Name

Judith A. Baerresen
Signature

SUSAN MELTON WILSON, DAG
03583110-LA2002AD1864

60057258

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Postmark Here

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee
Postmark Here

CLAUDE ANTHONY REESE
1900 South Point View
Los Angeles, CA 90034

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

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Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Postmark Here

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

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Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Postmark Here

JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, CA 90016

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0003 6702 5156

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

Sent To
Street, Apt. or PO Box
City, State,

AR EX Figueroa Pharmacy
600 West Manchester Blvd.
Los Angeles, CA 90044

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0003 6702 5224

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

Sent To
Street, Apt. or PO Box
City, State,

AR EX PHARMACY
2829 South Western Blvd.
Los Angeles, CA 90048-3033

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0003 6702 5217

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)

Postmark Here

AREX PHARMACY MANCHESTER
600 West Manchester Blvd.
Los Angeles, California 90044

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0360 0003 6702 5200

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)

Postmark Here

AR EX PHARMACY
3701 Stocker Street
Los Angeles, California 90008

PS Form 3800, January 2001 See Reverse for Instructions

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2516
AREX PHARMACY-FIGUEROA, AR EX PHARMACIES, INC., AREX PHARMACY MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER, CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER, Respondents.	**NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: September 16, 2004

Respondent's Name	AR-EX PHARMACY-FIGUEROA, AR-EX PHARMACY MANCHESTER, AR-EX PHARMACY, AR-EX PHARMACIES, INC.ROBERT A. GANTT and CLAUDE ANTHONY REESE
Respondent's Signature	Jonathan K. Golden
Respondent's Mailing Address	2829 S. Western Ave.
City, State and Zip Code	Los Angeles, CA. 90048-3033
Respondent's Telephone Number	

Check appropriate box:

☒ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name	JONATHAN K. GOLDEN
Counsel's Mailing Address	1880 Century Park East, Suite 300
City, State and Zip Code	Los Angeles, CA. 90067
Counsel's Telephone Number	(310) 553-3830 Fax (310) 553-1337

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Notice of Defense.wpt 8/30/01

60057258

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1880 Century Park East, Suite 300, Los Angeles, California 90067-1666.

On September 16, 2004, I served the foregoing document described as NOTICE OF DEFENSE on the interested parties in this action.

____ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;

X by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Susan Melton Wilson
Deputy Attorney General
300 S. Spring Street
Suite 1702
Los Angeles, CA. 90013

X BY MAIL:

X I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

___ I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

____ BY PERSONAL SERVICE

I delivered such envelope by hand to the office of the addressee.

Executed on, Sept. 16, 2004 at Los Angeles, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Jonathan K. Golden

Jonathan K. Golden